IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11436 of 2001

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VIDYA BHARATI TRUST

Versus

JAGADISHWARNATH CHANDRABHUSHANTRIPATHI

Appearance:

1. Special Civil Application No. 11436 of 2001

MR YN OZA with MR VH DESAI for Petitioner No. 1

MR JD AJMERA with MS PRITI PANDYA for Respondent No. 1

DS AFF.NOT FILED (R) for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 26/03/2002

ORAL JUDGEMENT

Heard learned advocates Mr.Y.N. Oza and Mr.J.D. Ajmera. With the consent of the learned advocates, the petition is heard and finally disposed of.

The petitioner school management challenges the judgment and order dated 11th October, 2001 passed by the learned Gujarat Secondary Education Tribunal in application No.23/1999.

It appears that respondent No.1 was serving as the Principal in the school run and managed by the petitioner Trust. For certain acts of misconduct respondent No.1 was dismissed from service on 11th October, 1998. The said order was challenged by respondent No.1 before the Tribunal in above referred application No.23/1999. The Tribunal partially allowed the said application inasmuch as the order of dismissal was set aside and the petitioner was directed to hold the disciplinary enquiry afresh. The Tribunal also ordered that respondent No.1 be paid the wages from the date of the order of the dismissal. Feeling aggrieved the petitioner Trust has preferred the present petition.

On the facts and in the circumstances of the case, the petition is partly allowed. The impugned order of the Tribunal is modified to the effect that upon reinstatement in service the respondent No.1 will be treated as under suspension. For the period from the date of dismissal from service till the date of reinstatement in service, the respondent will be treated as under suspension. The respondent No.1 shall be entitled to subsistence allowance from the date of the dismissal till the enquiry which may be held afresh against him is completed. Subject to the above modification the impugned judgment and order of the learned Tribunal is confirmed. It is further clarified that the petitioner Trust shall be entitled to claim grant from Government for the subsistence allowance which may be paid to the respondent No.1 herein. If such claim is made, the same shall be decided in accordance with law. Rule is made absolute in the above terms. There shall be no order as to costs.

The above order is made with the consensus of the learned advocates. Mr.Y.N. Oza appearing for the petitioner states that arrears of subsistence allowance for the period from the date of the dismissal till the date shall be paid within 8 weeks from today.

[Ms.R.M. Doshit, J.]

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